

# ReedSmith

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December 14, 2007

Via Fax (914-390-4179)

Hon. Stephen C. Robinson  
United States District Judge  
United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601-4150

## MEMO ENDORSED

Re: Merrill Herman and Sharron Dupler v. David Berson, et al., 07 Civ. 10263 (SCR)

Dear Judge Robinson:

We represent Fiserv, Inc. ("Fiserv"), a defendant in the above referenced action. I write to respectfully request a 20-day extension, from December 18, 2007 to January 7, 2008, for Fiserv to answer, move, or otherwise respond to the Complaint, and a concomitant extension of the Scheduling Order submission date, from December 28, 2007 to January 17, 2008.

These extensions are requested to provide time to discuss with the plaintiffs our request that the matter be voluntarily dismissed as to Fiserv on the grounds that (1) Fiserv had no role in plaintiffs' accounts; (2) Fiserv's affiliate, Fiserv Trust (not a named defendant), held plaintiffs' accounts, but was merely a custodian and did not have any role in the acts complained of that allegedly resulted in a loss to plaintiffs; and (3) plaintiffs agreed that all disputes with Fiserv Trust must be arbitrated. If plaintiffs will not agree to voluntarily dismiss Fiserv, the requested extensions are needed to provide time for Fiserv to prepare and file a pre-answer motion to dismiss.

This is Fiserv's first request for an extension of time. Plaintiffs' counsel and counsel for the other defendants in this action have advised me that they consent to this request.

**APPLICATION GRANTED**

*Stephen C. Robinson*

HON. STEPHEN C. ROBINSON

12/18/07

Respectfully Yours,

*Wendy H. Schwartz*  
Wendy H. Schwartz

cc: (via fax)

Patrick Gaffney, Esq., Counsel for Plaintiffs

Scott Zucker, Esq., Counsel for Defendants Berson, Daremy Court Ventures, L.L.C.  
and Daremy Court XIV, Inc.

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